THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.25804 of 1996

Dated:17.08.2006

Between:

Balagondla Venkataramudu.

…Petitioners

and

The Mandal Revenue Officer, C.K.Palli, and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.25804 of 1996

ORDER:

The petitioner was assigned agricultural land admeasuring Acs.56.10 cents in Survey No.676/2 situated at Puletipalli Village of C.K.Palli Mandal in Anantapur District. The said assignment was made on an application made by the petitioner by proceedings of the Mandal Revenue Officer dated 31.12.1985. In 1988 the Assignment Committee of C.K.Palli Mandal received several representations from the Villagers of Puletipalli complaining irregular assignment of land on large scale. Therefore, a special team headed by the Special Deputy Tahasildar was constituted to conduct enquiry and furnish the list of irregular assignments. In accordance with the orders of the Assignment Committee, the third respondent reported 226 cases of irregular assignment including the case of the petitioner. Therefore, the third respondent issued show cause notice calling upon the petitioner to show cause as to why assignment should not be cancelled. The petitioner submitted explanation. The second respondent considered the same, conducted oral hearing and by order dated 18.10.1988 cancelled the assignment made to the petitioner on the ground that he was minor on the date of the assignment and that the petitioner's father and mother own land admeasuring Acs.9.68 cents and Acs.2.00 respectively. Feeling aggrieved by the order of the

second respondent, the petitioner preferred an appeal before the third respondent which was also dismissed on 17.07.1996, aggrieved by which, the present Writ Petition is filed to set aside the order of the third respondent confirming the order of the second respondent.

A counter affidavit is filed by the Mandal Revenue Officer opposing the Writ Petition and denying the petition allegations that proper opportunity was not given to the petitioner and further asserting that the petitioner has not produced any evidence in support of the date of birth as 01.07.1953.

The learned Counsel for the petitioner raised three contentions. First he submits that a large number i.e., 226 cases were posted before the second respondent on 18.10.1988 and all the cases were heard and orders were passed within a short span of time. According to the learned Counsel, this itself would lead to an inference that no proper opportunity was given to the petitioner to represent his case. Secondly, the allegation that the petitioner was a minor on the date of assignment is not true. He submits that the petitioner was born on 01.07.1953 and the assignment was made on 31.12.1985, which would only mean that as on the date of assignment the petitioner was aged thirty two years. And even if the assignment as noticed by the Joint Collector is made in 1975, still the petitioner was a major in 1974. Therefore, he would urge that the order is passed without application of mind. Thirdly, he would submit that the property admeasuring Acs.9.68 cents owned by the petitioner's father is self-acquired property, and therefore, the petitioner cannot be disqualified for assignment on the said ground.

A perusal of the order passed by the second respondent would show that the Joint Collector conducted a sitting on 18.10.1988 at C.K.Palli Mandal. The petitioner was present along with his Lawyer. The second respondent heard the petitioner's Counsel and other villagers and after perusing the record passed orders for cancellation as irregular. Therefore, it would not be possible to accept the submission that there was no proper enquiry nor the petitioner was not given adequate opportunity. When the petitioner engaged a Counsel who made submissions before the second respondent, the petitioner cannot be heard to urge before this Court that there was no proper opportunity.

Insofar as the question whether assignment was made to the petitioner when he was a minor or not is concerned, as rightly pointed out by the learned Assistant Government Pleader, the petitioner did not produce any evidence except asserting before the Joint Collector as well as this Court that he was born on 01.07.1953. As observed by the Joint Collector in his order, the assignment was made to the petitioner

vide proceedings in D.A.R.Dis.38/82, dated 28.08.1974. In 1988 the age of the petitioner as inferred by the Joint Collector was thirty years, which only means that he was born in 1958. If this is taken into consideration, the assignment of land in 1974 to a person who was aged sixteen years (born in 1958) is certainly objectionable and illegal. Therefore, this submission is rejected. The father of the petitioner admittedly owned land admeasuring Acs.9.68 cents in Survey No.32/7 and his mother was also having a share (about Acs.2.00) in the land in Survey Nos.32/7 and 36/2. Whether the son of a person having agricultural land can be treated as landless and poor? While considering such question, whether the person is likely to inherit the property either because the father owns self-acquired property or because there is other factor disentitling succession is not relevant. The question in such case is whether the prospective assignee is landless or not and whether such person is poor person or not? One should not forget that under Board Standing Order No.15 paragraph 3, to be eligible, a person should not only be landless but also poor person. In this case by any stretch of imagination the petitioner cannot be treated as landless and poor person, and therefore, assignment made in his favour was *ex facie* illegal.

In that view of the matter, both the authorities have considered the matter in proper perspective and their orders are not vitiated by any illegality. The Writ Petition is devoid of any merit and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

17.08.2006
vs